THE COURTS.

THE STOKES WRIT OF ERROR.

A Motion to Bring Alleged Irregularities in the Oyer and Terminer Within the Purview of the Court of Appeals-Decision To Be Rendered This Morning.

GEORGE FRANCIS TRAIN

The De Lunatico Inquirendo Move-An Exciting Scene in Court-Females Ordered to Retire-Mrs. Booker on the Situation-George Himself on the Stand.

SENTENCE OF FITZGIBBONS.

He Claims To Be the Victim of False Swearing at the Coroner's Inquest-His Story Discredited and No Extenuating Circumstances in His Case-His Sentence is State Prison for Life.

ATTACHMENT AGAINST THE COMPTROLLER

He is Adjudged Guilty of Contempt of Court-No More Nonsense of This Kind To Be Tolerated in Future.

COMMISSIONERS OF DOCKS.

They Are To Be Allowed to Disburse Their Own Bonds-The Comptroller to Honor Their Requisitions.

BUSINESS IN THE OTHER COURTS.

Yesterday, in the United States District Court Judge Blatchford granted an order, the object of which was to discontinue the proceedings that had been instituted for the purpose of throwing the affairs of the Bull's Head Bank into bankruptev. This order was made with the consent of the parties upon the payment by the bank of the legal costs, and fees which amount to \$5,608 75.

Another alleged offender against the law in force for the punishment of persons charged with sending vulgar and obscene matter through the mails was brought before Commissioner Osborn, in the United States Court. In the present instance the party accused is Dr. John White, of 44 Great es street. He was committed for examination. The accused is said to have several aliases.

Patrick Fitzsimmons, who had been charged before Commissioner Shields with forging a Post Office order for \$10, was yesterday honorably discharged, there having been no evidence to support the prosecution.

In the United States District Court, yesterday, the case of the United States vs. Anton Huppel was concluded. The action had been brought to condemn the brewery of the claimant, situated at Morrisania, for alleged violations of the revenue law. The jury found a verdict for the claimant.

More raids on the venders of obscene books and materials! Let the authorities go ahead and wipe out the evil-disposed men who are spreading through the community a pestilence as bad as the that continued efforts are being made to suppress this horrible crime of disseminating the vilest and most abominable class of books-literary poison neatly done up, but sure to kill the morals and souls of those who may be unfortunate enough to

STOKES AGAIN.

the Oyer and Terminer Within the Purview of the Appeal Courts-The District Attorney Demurs-Decision on the Motion To Be Given This Morning.

The long and anxiously looked for revival of the Stokes case in the courts took place yesterday in the General Term of the Supreme Court of this city. Public interest as to what would be the de cusion of the Judges on the motion for a writ of error and the bill of exceptions to the charge and rulings of Judge Boardman, taken at and subsequent to the second trial of Edward S. Stokes for the murder of James Fisk, Jr., in the Grand Central Hotel, on the 6th of January, 1872, has never flagged. The frequent murders which followed like an epidemic the shooting of Fisk, and the prompt vindication of the laws which followed in the case of Foster in this city, of Rogers in Brooklyn, of Gaffney in Buffalo, of Frelich in Syracuse, and the inevitable fate of the unfortunate Nixon sentenced to be executed on the 11th day of May next for the murder of Phieffer, has materially tended to keep the Stokes case and the interest The General Term of the Court, before the Judges of which the opening arguments of the case must be made before final reference to the Court of Appeals, sat yesterday, Judge Ingraham presiding with Judges Brady and Davis on the bench. As might be expected, the court room was crowded, and the greatest interest was manifested in anticipation of the proceedings. There was enough in the presence of a formidable array of counsel, and a still more fermidable display of law books, briefs, piles of testimony, records, tills of exceptions, &c., to bring up the popular feeling to fever heat. Stokes himself was not present, but his aged father, his brother Horace and other relatives, whose appearance have become known and familiar to the habitudes of the Court of Gyer and Terminer, occupied seats within the bar and close to the counsel for the piaintiff in error, which is now the legal phrase for Stokes in this branch of the legal joust. a still more fermidable display of law books, briefs,

now the legal phrase for Stokes in this branch of the legal joust.

Mr. Lyman Tremain, Mr. Dos Passos and Mr. Bramherd represented the piaintiff in error, and District Attorney Phelps and ex-Judge Fullerton represented the People of the State of New York, delendants in error.

When the Judges had taken their seats Judge ingraham read some unimportant decisions, and the District Attorney said that in the case of Edward S. Stokes, the piaintiff in error, vs. the People of the State of New York, defendants in error, he was ready to proceed with the argument in a demurrer to a motion of counsei for the plaintiff in error.

Mr. Tremain then rose to explain his motion, which, he said, was simply preliminary to the

Mr. Tremain then rose to explain his motion, hich, he said, was simply preliminary to the lain issue of the case. His metion was for an ider to compel the District Attorney, for the peotic, to join issue in an assignment of error incis, in accordance with the practice of the ourt. With regard to the main issue Mr. Tremain said that the counsel for the appellant in a case had used the most extraordinary diligence is getting prepared to meet the case as soon as overlike.

THE WRIT OF ERROR IN THE CASE not been signed until the present term of the t had begun. Since that the counsel had get writ of error, covering several inted. They had also got the writ of certiorar nich was applied for in the ordinary way in the nrts, printed, and this covered over four the not four hundred folios. Finally, they had got a cord in judgment, which they had only receive the term began, printed also, and this cover veral thousand folios. He stated this to she at counsel had used the most extraordinary did

nce. Here the Judges conferred for a little. Judge ingraham—What do you intend to do with

in motion? Fremain—I merely make this preliminary nt of errors in fact.

fr. Tremain-To sestuone it for another term,

piecemeal.

Court to the District Attorney—We are ready to hear any motion from you. What is your motion

On the — day of March, 1873, the plaintiff in error filed and served on the defendant in error an assignment of errors in fact, setting forth the two above-mentioned facts, together with three certain irregularities committed by the jury during the trial, and also entered a rule in the Cierk's office requiring defendants in error to join in error within twenty days.

On the 9th of April, 1873, the defendant in error served the notice to set the same aside, as above.

On the 9th of April, 1873, the defendant in error served the notice to set the same asside, as above. In answer to the District Attorney's quotation from section 28 of the Revised Statutes it is claimed by counsel for Stokes that this section only applies to general assignments of errors of law and not of fact.

Mr. Tremain, in reply to the District Attorney's argument, said that when the plaintiff in error was confronted by

argument, said that when the plaintiff in error was confronted by

AN IGNOMINIOUS DEATH UPON THE SCAFFOLD his counsel decided that three modes of reviewing the proceedings in the Court of Over and Terminer still existed. One was upon the bill of exceptions: another to bring up the outstanding branches of the records, to see if they have been altered, diminished or affected with irregularity; the third by assignment of error in fact, either general or special. The last named mode was found in every old law book in the land, and had not been abolished. Mr. Tremain reviewed the various cases to show that it was an existing remedy unaffected by later legislation.

After hearing Mr. Tremain's argument the Lation.

After hearing Mr. Tremain's argument the Court conferred for a little time, and Judge Ingraham said that decision would be given on the motion at half past ten o'clock to-morrow.

THE EFFECT.

The effect of this motion of Stokes' counsel, should it be allowed, will be to bring under the consideration of the General Term and the Court of Appeals, if necessary, the irregularities above alluded to in Judge Boardman's Court.

GEORGE FRANCIS TRAIN.

The De Lunatico Inquirendo Investiga-

tion in the Train Case-A Suggestion from the Court that the Females

Present Retire-Mrs. Booker Demurs-

The Court Cleared-Train Himself on

The de lunatico inquirendo into the mental con

dition of the notorious George Francis Train was

resumed yesterday atternoon, before Chief Justice

Daly, of the Court of Common Pleas, and a jury.

George was prompt in his attendance, escorted by

Bernis, was also on hand, with a number of George's female friends, all as sound

as himself upon the specialties, or character-

istics, which form the groundwork of the

present inquiry. Among the Sorosis tribe Mrs.

Booker, sister of Clattin and Woodhull, who subse-

quently figured in the proceedings of the session.

was conspicuous. Dr. Clymer, the witness under

examination, was asked the question, from the conversation he had had with Train did he

ness, in a low tone, intimated to the Court that he would prefer not to answer the question in the

presence of females. Judge Daly at once in-

formed counsel of the difficulty, and, turning to

the audience, asked the ladies to retire. Mrs.

to stay and hear it out. This riled the

characteristic placidity of the Court, who

the jury, counsel, the witness and the press. The

order was carried out by Mr. Valentine, and Mrs.

Booker had to incontinently retire with the

crowd, saying, however, that she hoped the press

would make public all that might transpire in her

would make public all that might transpire in her absence.

MORE MEDICAL TESTIMONY.

Dr. Meredith Clymer was called to the stand. He testified:—I have made a special study of the diseases of the nervous system for seven years; was physician to the Philadelphia Hospital, where all the insane cases of the county were treated; insanity may be defined to be a disease in which the organs that are the immediate agents of the mind are not in sound working order, the external expression of which is certain conduct of the person suffering from the disease. Witness went over the whole theoretical, scientific and illustrative details of all the forms of mania, delusions, hallucination and illusions in language very similar to his medical brother experts who had preceded him. He gave, also, similar versions of all the several phases of eccentricity.

lowed.

Chief Justice Daly cleared his brain with an effort, and, after a long pause, said—i will adopt a different course. Mr. Valentine, clear the Court of all but the jury, counsel, the witnesses and the

ress.
Mr. Valentine and his officers immediately put
Mr. Valentine and his officers out the order. The

Mr. Valentine and his officers immediately put themselves in motion to carry out the order. The audence very promptly and quietly faced to the doors and moved along. The women jumped to their feet, shook their skirts and gave a scowl at the poor Chief Justice that he will, no doubt, remem-ber to his dying day. Then, perforce, he turned his eyes to the the principal of the Sorosis, Mrs. Booker, who again faced him, and, with a frigid curtsey, said, "I will leave it to the reporters of

Booker, who again seeed him, and, with a fright curtisey, said, "I will leave it to the reporters of the press to give us every word in the morning papers." Mrs. Booker then vanished with the other strong-minded sympathizers with George and his battle of obscently against purity.

TRAIN ON THE STAND.

Dr. Clymer was asked to stand aside for a little time to allow, at this point, a brief examination of the delendant himself.

George Francis Train was then called to the

George then stepped boldly to the witness stand.

a smile lighting up his face as if the farce was reaching a new point of interest to nim. He stood, but refused to be sworn on the Bible, in which he said he did not believe. I am willing to make a statement, said George, which will be simply the truth.

he Court.-Will you affirm, Mr. Train, that you speak the truth, the whole truth, and nething

that, for one, she would prefer

Sheriff's Deputy. His Secretary, Mr.

until we are ready. 'Inis case must proceed by

District Attorney Lyons—I hold in my hand a copy of the Train Lique. Be good enough to look over it and say if the articles there marked were written by you, and if the statements are true. Train—I am the author of the articles that appear there, so far as the mere publication goes, but they are selections from the Bible, and the authenticity of the Bible is so confused that no one can tell who are the authors of it. I do not believe in the authenticity of the Bible at all. I will point out the quotations. Court to the District Attorney—We are ready to hear any motion from you. What is your motion for the people?

District Attorney—I move to dispense with the assignment of error on facts, on the ground that the practice is obsolete.

When the District Attorney had fairly commenced his argument old Mr. Stokes drew his chair to the front near the counsel for his son, and appeared to listen eagerly to every word that fell from Mr. Phelps' lips.

The motion as formally made by the District Attorney was to strike from the files an assignment of errors of fact heretofore served by the plaintiff in error, and to vacate a rule requiring the delendant in error to join in error.

out the quotations.

George then took the paper in his hands.

The Court—Mark with a pencil the quotations.

Train (marking the quotations)—These are all mine. This here is what is called the "Catholic Confession of Faith," which Protestants put into the mouths of Catholics.

George, who was standing near the bench, then torney was to strike from the files an assignment of errors of fact heretofore served by the plaintiff in error, and to vacate a rule requiring the deiendant in error to join in error.

Mr. Phelps contended at great length that upon an appeal on writ of error no assignment of error or joinder of error is necessary. Section 23 of the Revised Statutes provides that no assignment of errors or joinder in error shall be necessary upon any writ of error or certiforari issued pursuant to the foregoing provisions, but the Courtshall proceed on the return thereto, and render judgment upon the record before them. Counsel contended eloquently and at length that under the writs of error and certiforari which had been granted to the plaintiff in error, and the bill of exceptions, which had been allowed, every opportunity was given to him of correcting irregularities and amending the judgment of the Court below.

The subject matter of the assignment of error in fact had been already presented in the Court of Oyer and Terminer, and there disposed of. He cited the Cancemi case and others to show that the assignment of error was abolished as a useless, cumbersome and embarrassing mode of reviewing decisions in criminal cases.

On the other hand, in the points of the plaintiff in error, it is stated a bill of exceptions was settled in January by Judge Boardman, and upon that settlement the plaintiff in error endeavored to retain in his proposed bill of exceptions allegations showing the absence of the prisoner and the absence of the prisoner and the absence of the prisoner and the absence of the pladge during a portion of the trial; but they were stricken out by Judge Boardman, on the ground that they were not proper subject matter for a bill of exceptions, but the truth of the facts was not controverted. Upon the return to the writ of error being filed in the Cerk's office the plaintiff in error also moved in the Court of Oyer and Terminer, inter aha, to correct and amend the judgment record, by inserting the above facts therei nouths of Catholics. orge, who was standing near the bench, then

ook the witness chair.
In answer to the District Attorney he said he In answer to the District Attorney he said he pullshed a paper (the Train Ligne) and prepared the quotations from the Bible; the other quotations are from the "Catholic Confessional," selected by Protestants to injure Catholics, but I believe them to be fraudulent; the head notes are my own; I took them from the National Police Gazette; I followed the plan pursued at the present time, and I don't see why they should not be applied to things that happened then.

George seemed anxious to be questioned further, and was evidently disappointed when the District Attorney passed him over to his own counsel.

Mr. Chatfield—We don't intend to cross-examine now, but we may at another stage.

George then resumed his usual seat near his principal counsel, Mr. Clarke Bell.

Dr. Clymer was called back to the witness stand and testified that the conclusion he had arrived at from his examination of the defendant was that he was of unsound mind.

The witness was then cross-examined by Mr. Bell, when the whole ground for the belief and conclusions for insanity were gone over again, with very little variation, till the close of the session, which, at the usual hours, was adjourned till lour P. M. this day.

FITZGIBBONS' FATE.

His Arraignment for Sentence-The Old

State Prison for Life. John Pitzgibbons, who on last Christmas Eve so inhumanly murdered John O'Hara, and from whom was accepted a plea of manslaughter in the first degree, was brought before Judge Brady in the Court of Oyer and Terminer for sentence. He wore a repulsively sullen look, and in every lineament of his countenance was revealed the hardened, obdurate criminal,

"Have you ever learned a mechanical trade?" asked Mr. Sparks, the Clerk, after first requesting

"No," answered the prisoner, sullenly. "What have you to say, if anything," pursued the Clerk, "why the Court should not now proceed to sentence you?"

plied Fitzgibbons, "swore faisely. O'Hara tore the clothes off my back and bit the finger of my wife. They broke open my door. I used no hatchet, but a hammer which I took from O'Hara."

Mr. William F. Howe and Mr. Abe H. Hummel, the indefatigable and untiring counsel of the prisoner, to whose united efforts he owes his escape from the gallows, were seated by and listened to the prisoner's statement. When he had finished what he had to say Mr. Howe rose to his feet, and, in a few words most feelingly uttered, thanked the Court and the District Attorney for having accepted the plea made by the prisoner. The fact was not to be disguised that a terrible crime had been committed, and the prisoner evinced, by his plea, his expectation and willingness to pay the penalty of his offence. He hoped, however, that the Court would take into consideration the statement of the prisoner and also be mindful of the wife and little ones, who were made to suffer the sad fruits of his

ones, who were made to suffer the sad fruits of his crime.

Assistant District Attorney Rollins said that upon an examination of the lacts he was satisfied that the statements of the prisoner were untrue. He accepted the plea of manslaughter in the first degree with the belief that in the case of a trial before a jury no higher offence could be proven against him than murder in the second degree. He did not accept this plea with the desire of any leniency toward the prisoner, but in the expectation of the severest penalty under the statute being meted out to him—imprisonment for life.

THE SENTENCE.

Judge Brady next proceeded to sentence the prisoner as follows:—Fitzgibbons, your unfortunate position now is attributable to the disposition to do violence which has prevailed for some time in this community. Your plea of manslaughter in the first degree was accepted, not out of consideration for you, because the merits of the case do not justify me in taking that into consideration, but because there were some elements in it which would probably, in the estimation of the jury, reduce your offence to murder in the second degree, the punishment for life. In accepting it I did so upon the statement made by the District Attorney that the facts narrated by him were those that he could conclusively establish on the trial of the case. The act which you did, as I understand the statement, was a very brutal one. You killed the man as soon as you had an opportunity to exercise your power over him. I do not perceive in your case any extenuating circumstances. It is not only necessary that you should be punished, but that the lawlessly inclined of this country should be instructed, by what takes place in courts of competent jurisdiction, that they prove the country of competent jurisdiction, that they prove the country of competent prisidetion, that they are industry to exercise your power over him. I do not perceive in your case any extenuating circumstances, it is not only necessary that you should be justice, and if they

Fitzgibbons took the sentence with the utmost coolness. His wife and some other women in a corner of the court room were greatly affected. A lew minutes later Fitzgibbons was on his way to the Tombs, under the escort of Deputy Sheriffs Shields and Cabill.

THE COMPTROLLER IN CONTEMPT.

Trifling with the Mandates of the Court Getting Played Out-He is Fetched Up with a Round Turn-An Attachment Issued Against Him and Eldridge Street Jail Possibly in the Distance.

The disregard paid by Comptroller Green to the mandamuses of the Supreme Court Judges has for a long time been a subject of general comment, not only among the members of the bar and others in attendance upon the Courts, but in the outside world among those accustomed to read the newspapers. Many have expresed their wonder whether he would be allowed to continue this sort of thing with impunity. It appears, however, that the Judges have taken hold of the matte in earnest, and evince a determination that the dignity of the Court shall not be trifled with any longer. This determination was shown yesterday, both in the Supreme Court, General Term, and in Supreme Court Chambers. It showed itself in the former in a decision rendered in the

iar versions of all the several phases of eccentricity.

During the Doctor's testimony on these points George Francis moved uneasily on his chair, sometimes leaning forward and again throwing himself back, with his eyes all the time intently fixed upon the witness. He, in fact, showed considerable excitement at the Doctor's explanation of insanity, as illustrated in George's own case. The testimony, however, was in all essentials a repetition of the previous witness' diagnosis of Train's hallucinations and deiusions which made up the sum total of insanity against George Francis.

MRS. BOOKER ON HER LEGS.

The District Attorney asked the witness what were the expressions and utterances of Train upon which, so far, he based his conclusion of the insane state of defendant's mind.

Dr. Clymer intimated to the Court, softo voce, that he did not wish to answer the question in the presence of females. CASE OF JAMES W. M'GOWAN, an employe of the Board of Supervisors. Mr. Mc Gowan claimed a salary of \$1,500 under appointment of the Board of Supervisors, but the Compthat he did not wish to answer the question in the presence of females.

Judge Daiy hereupon informed the females present of the doctor's difficulty, and politely expressed a wish that they would retire.

Mrs. Booker, who sat near George, rose with a flushed lace, and, addressing the Court, said. "Evil be to him who evil thinks; nothing that can be said can cerrupt me."

The Chief Justice was for a moment confounded, the jury winced, counsel smiled, the audience got excited, and even Valentine, the veteran Chief Officer of the Court, left that an unusual crisis was at hand. George started to his feet, stretched over his hand to Mrs. Booker, in recognition of the kindred spirit with his own which actuated that strong-minded woman, and a mutual grasp followed. troller, claiming the appointment to be illegal, would not pay his salary. Mr. McGowan obwould not pay his saiary. Mr. McGowan obtained from Judge Ingraham a writ of peremptory mandamus against the Comptroller directing him to pay it. Mr. Green disregarded the writ, and a motion was made to punish him for contempt. Pending that motion another was made on behalf of the Comptroller to change the peremptory writ to an alternative writ. Judge Fancher granted this motion, from which Mr. McGowan appealed. This took the case to the General Term, which Court, as stated, also rendered its decision yesterday. This decision reverses the order appealed from. Judges ingraham, Learned and Brady heard the argument. The two former decide for reversal, while Judge Brady dissents. Judge Learned gives the reversal opinion. It is brief and pointed, but talks plainly about the matter. The following is his opinion:—

ion:OPINION OF JUDGE LEARNED. opinion of Judge Learned.

I abstain entirely from examining into the merits of the relator's case. It seems to me that more important question is involved—that is, and the writs of the Court to be obeyed or not? they are, then the respondent should be punished for his contempt. If they are not, then there is not use of the alternative mandamus. For if on the return thereto the Court should grant the pemptory writ the respondent will have the same liberty to disobey and move to set it asic which he has employed at this time. Was suggested that there was a clerical error if the order and writ of "seven hundred" for "favored and the set of the order and writ of "seven hundred" for "favored and the set of the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and writ of "seven hundred" for "favored and the order and write or "fa the order and writ of "seven hundred" for "fly hundred." If so, that can be remedied in any future proceedings. The order appealed from should be reversed, and the relator should have

should be reversed, and the relator should have the usual process against the respondent to punish him for his contempt of Court.

JUDGE BARREIT ON THE MATTER.

Some time since Mr. John Weich did some work for the Croton Aqueduct Department and he presented for the same a bill of some \$3,200 against the city. He assigned the claim to Mr. Theodore M. Morris, and the latter, finding the Comptroller would not pay the bill, although properly audited, obtained in Supreme Court, Chambers, a writ of peremptory mandamus against the Comptroller, directing him to pay it. To this writ the Comptroller paid no more attention, as one of the counsel said, The Court—Will you affirm, Mr. Train, that you will speak the truth, the whole truth, and nothing but the truth? Then the answers that you will give to the questions that may be put to you will be the truth, the whole truth, and nothing but the truth?

Mr. Train bowed, and the examination proceeded.

Comptroller desired to reinvestigate the matter and have the case carried to the General Term. Judge Barrett said that on the papers before him the issue of the writ of peremptory mandamus was conclusive as to the justness of the claim. Asking to send the case to the General Term seemed to be a frivolous pretext. The Comptroller had disregarded the mandate of the Court, and it was clear that an attachment must be granted against him. He ordered such attachment to issue.

issue. It is probable that the Comptroller will make his appearance in Court to-day. He can be forgiven on good cause being shown, or fined \$250, and in default of payment be sent to Ludlow Street Jail. "When the Comptroller is apprised of the attachment of the Court to him, I have no doubt he will be greatly pleased," sarcastically observed a lawyer after the close of the above proceedings.

"This attachment is a trifle," said another lawer.

"He won't find it so," observed the first gentle-man, but now in solemin earnest.
"A trifle, I mean," exclaimed the first gentleman,
"to the attachment shown him by the Legislature by the passage of the charter in its present snape."

COMMISSIONERS OF DOCKS.

Comptroller Must Honor the Requisitions of the Commissioners-Important Decision by the Supreme Court General Term.

The controversy between the Commissioners of Docks and the Comptroller as to which shall have disbursement of the funds set apar for carrying out the objects of the commission is a subject already familiar to the readers of the HERALD law reports. As the Comptroller refused to honor their requistions for funds, the Commissioners of Docks not long since, as will be remembered, applied for a mandamu requiring the Comptroller to pay them moneys upon their requisition for the purposes of the Com mission. The Comptroller claimed that the moneys expended by the Commissioners should be disbursed by him, and that the payrolls and vouchers should be sent to him for that purpose. The motion for a mandamus was denied at Special Term and an appeal was taken to the Genera

motion for a mandamus was denied at Special Term and an appeal was taken to the General Term, where a decision was rendered yesterday. Judge Ingraham gives the opinion of the Court.

OPINION OF JUDGE INGRAHAM.

There can be no doubt but that the Commissioners of Docks have authority to expend annually upon the docks, piers and bulkheads of the city, under the provisions of the charter, a sum not exceeding \$3,000,000\$, for which the Comptroller is directed to issue and sell the bonds to that amount. Nor is there any control over that Board as to the purpose for which the moneys are to be expended or the amounts to be applied to each purpose, provided they conform their expenditures to the objects specified in the statute. The only question leading to this controversy is as to the mode in which they are to draw the money from the Comptroller. The statute prescribes that it shall be drawn out and paid by the Comptroller for the several objects and purposes provided in the act. In making the requisition it is proper that the Commissioners should state the purpose for which the money is required. If the money is required for the payment of salaries and employés, they should make their requisition of a gross sum for that purpose, and in like manner for repairs, &c. Beyond this the statute does not require any furtuer account in their requisition. It does not require bills to be transmitted to the Comptroller, nor has he any right to insist upon paying their employés. These powers are vested by law in the Board, and with the payment of such accounts the Comptroller has no right to interfere. We think with such a statement of the purposes for which the sums are required the Comptroller is bound to comply with the requisition and pay over the money to the Commissioners in a gross sum to be expended by them in their discretion for the purposes or which it is drawn. The present order is affirmed, with costs.

Judge Pavis concurs in the result, but disagrees with the bedy of Indge Ingraham's oninion. Judge Davis concurs in the result, but disagrees with the body of Judge Ingraham's opinion.

BUSINESS IN THE OTHER COURTS.

SUPREME COURT-CHAMBERS.

Mandamusing the Comptroller. Before Judge Barrett.

In that golden epoch of our municipal history when furnishing supplies for any branch of the city government was a good thing to do, at least for the furnisher, Mr. Martin B. Brown supplied some books and stationery for the offices of the Register and Sheriff. The bills of the Register and Sheriff. The bills amounted to several thousand dollars, which the Comptroller has since refused to pay. Ex-Mayor Hall took up the legal cudgels for Mr. Brown, and yesterday applied in this Court for a peremptory writ of mandamus directing the Comptroller to pay the full amount of the respective bills instead of the minus \$1,000 of which he seeks to curtail them. Mr. Hall made a lengthy, able and conclusive argument. He insisted that the Board of Supervisors, having audited the bills was conclusive on that point and that the duty of the Comptroller was simply ministerial and to compare the vouchers and to see that they were complete. He cited various rulings in similar cases in support of his argument. Mr. Andrews, Assistant Corporation Counsel, strenuously opposed that this official should furnish his own stationery, and as to the supplies for the Register's office, he claimed that the power of audit lay with the present Board of Audit, and that the Comptroller should only pay the amount as audited and allowed by the latter Board. The Court reserved its decision.

SUPERIOR COURT-TRIAL TERM-PART I. surances.

Before Judge Freedman.

Carlisle Norwood, receiver of the Lorillard Fire Insurance Company, brought four suits against the Benevolent Fire Insurance Company, which came to trial yesterday in this Court. The actions were upon policies of insurance issued by the defendants to the Lorillard company. The policies contained two clauses; first, loss, if any, payable pro rate two clauses; first, loss, if any, payable pro ratas with the reassured; and second, reinsurance in case of loss to be settled in proportion as the sum reinsured shall bear to the whole sum covered by the reinsured company. The suits grew out of the large Chicago fire, and there was no dispute as to the lacts of the fire and loss; but the defendants claimed to be liable to the plaintiff only to the extent or percentage which the plaintiff paid to the creditors of the insolvent company. The Court overruied this point and directed a verdict for some fifteen thousand dollars, being the full amount claimed. Carlisle Norwood, Jr., for plaintiff, and Daniel D. Lord for the defendants.

COURT OF COMMON PLEAS-TRIAL TERM-PART L The Ocean Bank Robbery.

Before Judge Larremore. The case of the National Bank of Lyons, Iowa vs. The Ocean National Bank, of this city, was on trial yesterday, for the third time, in the Court of Common Pleas. The suit is brought to recover the value of \$31,000 of United States bonds, stolen the value of \$31,000 of United States bonds, stolen from the vault of the Ocean Bank, where they were left on deposit, at the time of the great robbery in June, 1869. The case was first tried in October, before Judge J. F. Daly, One of the counsel was taken ill and a juror was withdrawn. The second trial was before Judge Larremore, last January. After sitting nine days the jury disagreed. A motion was made before Chief Justice Daly to have a retrial before the same Judge by consent of counsel. The case came on for trial accordingly yesterday. Ex-Judge Birdseye, in opening for the plaintiff, stated that they would now be able to prove that the vault was not locked.

COURT OF GENERAL SESSIONS.

Another Youthful Highwayman Sent to State Prison for Ten Years. Before Recorder Backett.

Among the cases on the calendar yesterday was an indictment for robbery in the first degree against William Dougherty. The complainant, an old man, stated that on the 18th of this month the prisoner struck him on the head and stole \$5 in money. His Honor, in passing sentence, observed that, as he knew nothing of his antecedents, he would not impose the full penalty, but sentenced him to the State Prison for ten years.

A Female Professional Shoplifter Sent to the State Prison.

Julia Hande, alias Harris and Weaver, an elderly genteel looking female, but said to be a well known shoplifter, pleaded guilty to an indictment charg ing her with stealing a velvet sacque, on the 4th of April, from the boarding house of Schina Braden, in West Eighteenth street, the property belonging to Mrs. Mary Kendall. The prisoner was sent to the State Prison for three years and six months.

Maggie Berg was tried and convicted of stealing on the 5th of March, a quantity of ladies' wearing apparel, consisting of dresses, cloaks and suits aggregate value of which was \$415. Mr. Henry P. Andrews testified that this property was worn P. Andrews testified that this property was worn by his deceased wife, and that it was placed in a trunk, which was left in the storeroom of his boarding house, 18 Washington place, where the prisoner was employed as a domestic. She was sent to the State Prison for three years.

James Sullivan pleaded guilty to an attempt at larceny from the person, the charge being that, on the 6th of April, he stole a pocketbook, containing ninety cents, from John H. Baumgard. He was sent to the State Prison for two years and six monttes.

Francis Ward was found guilty of grand larceny

in stealing underclothing and a Japanese suit, on the 2d inst., belonging to Frank Thornton, an in-mate of a disreputable house in Wooster street. The sentence was eighteen months in the State

Prison.

Catharine Shiverton was convicted of stealing a gold watch worth \$75, the property of Hannah McCarty, by whom she was employed as a washerwoman. The prisoner admitted finding it in the clothes basket and pleaded poverty as the reason for appropriating it to her own use. The jury recommended her to mercy, and the Recorder imposed the lowest penalty, which was one year in the State Prison. Petty Larceny.

worth of human hair from Mrs. Fanny Quinn by false pretences, on the 20th of August, pleaded

Henry Silverstone, charged with obtaining \$147

guilty to petty larceny and was sent to the Peni-teutiary for six months.

Cornelius Ryan was tried upon a charge of steal-ing acoat on the 14th inst., the property of Solo-mon Jackson. The evidence was insufficient to warrant his conviction, and the jury gave him the benefit of a legal doubt by rendering a verdict of "Not guilty."

Extensive Larceny at a Livery Stable

Disagreement of the Jury. Edward Morris, who was jointly indicted with James Ward, was tried for an alleged grand stated in his opening that Ward was an English man, and that the hanging of Foster so operated upon his mind that he thought he would be hung for upon his mind that he thought he would be hung for stealing, and this resulted in his becoming insane. The charge against them was that on the 7th of April they stole two horses and carriages, fifteen sets of harness and a quantity of robes and blankets from the livery stable of Charles Dodd, 164 Division street. It appeared from the testimony that Ward was in the employ of the complainant, and that he induced Morris to assist him in the perpetration of the larceny. They were arrested in Jersey City while endeavoring to dispose of the blankets. The Ch. of Police of Jersey City delivered the prisoners into Morris to assist him in the perpetration of the larceny. They were arrested in Jersey City while endeavoring to dispose of the blankets. The Chef of Police of Jersey City delivered the prisoners into the charge of a New York officer, who conducted them and the horses and carriages to this city. The prisoner Morris told the jury that Ward asked him to drive a coach, and that he did not know that he (Ward) was perpetrating a larceny. The jury deliberated upon the case for several hours, and being unable to agree the Recorder discharged them at a late hour in the alternoon. In doing so His Honor observed that in the whole course of his judicial experience he never saw a plainer case of guilt, and that by the prisoner's shedding tears he worked upon the sympathy of the jury.

the jury.

Morris was remanded to be tried again.

TOMBS POLICE COURT. The Seller of a Stolen Bond Arraigned.

Before Judge Hogan. arraigned before Judge Hogan yesterday, charged with having stolen bonds in his possession. Mr. Arthur T. Fitch, of the firm of Fitch, Otis & Co. preferred the complaint. He said that on the 8th of April, Hampton came to his place of business and offered a \$1,000 bond, on the Alleghany Valley Railroad, for sale. Mr. Fitch received the bond and told Hampton to call the next day, and he would tell him what he would do about it. The bond was left in the possession of Mr. Fitch. He telegraphed to the agent of their house in Philadelphia, and received a satisfactory reply, saying that the bond presented was genuine and regular. The following morning Hampton called and received \$900 in government bonds in payment for the Alleghany Valley Railroad bond. On the next day, the 11th of April, Colonel William Philipps, President of the Alleghanv Valley Railroad Company, called on Mr. Fitch and stated that bond 2,127, which he (Fitch) bought from Hampton, was part of some property stolen on the 5th of April last, amounting in all to \$50,000, from the Pittsburg Trust Company. These bonds were deposited there by the Odd Fellows' Savings Bank of Pittsburg. Hampton was arrested by betetive Doyle, of the First precinct, on Monday. Assistant District Attorney Allen appeared for the prosecution and Counsellor William Howe for the defence, but the examination was postponed till to-day to await the appearance of the parties from Pittsburg who are personally interested. tell him what he would do about it. The bond was

Boyish Burglars.

John W. Hutchinson, John Johnson and James Healey, three young lads, were arrested by Officer Van Buskirk, of the Third precinct, yesterday, for a burglary committed on the premises of Willis B. a burglary committed on the premises of Whilis B.
Blackwell, manufacturer of confectionery, at No.
252 Greenwich street, on the 16th of April. They
forced their way through the coal hole and the cellar, thence to the office, which they robbed of all
that was available—one revolver and \$23 in money.
Judge Hogan held them in \$1,000 bail each to
answer. The boy Hutchinson was formerly an employe of Mr. Blackwell's and showed the other two
the road to the plunder.

JEFFERSON MARKET POLICE COURT.

A Burglar Committed.

John Adams, who was found in the premises 508 Broome street, occupied by L. Gronan & Co., on Monday evening, while in the act of perpetrating a burglary, was arraigned before Justice Cox, at the Jefferson Market Police Court, yesterday, and committed without ball to answer.

Highway Robbery.

Peter Woods, of 404 West Sixteenth street, was charged with highway robbery on complaint of George Cunningham, of 408 West Sixteenth street. The complainant testified that while going to his residence on Sunday evening he was followed by Woods, who struck him on the head with a blunt instrument when near his own door, knocking him down and robbing him of what money he had in his possession. He recognized Woods at the time, and so was enabled to procure his arrest through Detective Riley, of the Sixteenth precinct. He was locked up to answer.

Felonious Assault. Andrew Beatty, of 279 Seventh avenue, was

charged with a felonious assault on Patrick Bolton, of 337 East Seventy-fourth street. The parties be came engaged in a quarrel in Morse's saloon on Sixth avenue, when Beatty drew a knife and stabbed his antagonist in the left breast, inflicting a dangerous wound. The injured man was taken to Bellevue Hospital, where he remains in a critical condition. Beatty was locked up to await re-A colored man named Charles Williams, of 66

Grand street, was charged with stealing a coat, pair of pantaloons and a dressing gown valued at \$58 from Albert Heartt, of 330 East Fourteenth street. A portion of the clothing was found in Charles' possession, and he was locked up to answer.

BROOKLYN COURT CALENDAR.

CITY COURT.—Nos. 135, 95, 211, 134, 122, 76, 198, 234, 63, 10, 133, 138, 322, 180, 204, 205, 239, 240, 242, 244, 245, 246, 247, 248, 251, 252, 253, 254, 255, 256,

UNITED STATES SUPREME COURT.

Decisions. WASHINGTON, April 22, 1873.

No. 179. Partridge vs. Phœnix Mutuai Life Insur ance Company-Error to the Circuit Court for the District of Missouri.-This was an action to recover of the company sums alleged to be due the plain tiff as agent of the company in St. Louis, as comtiff as agent of the company in St. Louis, as commissions on policies which continued to run after he ceased to be agent, and on the trial he offered to prove that a written promise on the part of the company to pay him as much as it did other agents implied a contract to pay him such commissions while the policies were kept alive. The evidence offered was of a local understanding of the language used in the writing. The evidence was rejected, and the case resulted in favor of the company. The ruling below is here affirmed. Mr. Justice Miller delivered the opinion.

case resulted in lavor of the company. The ruling below is here affirmed. Mr. Justice Miller delivered the opinion.

No. 171. Crosby, survivor. &c., vs. Beale et al.—Appeal from the Circuit Court for the District of Columbia.—This was the affirmance of a decree of the Court below dismissing the bill in the case filed to charge the estate of Robert Beale, deceased, with losses claimed to have been sustained by an estate coming to the appellants by reason of his alleged fraud as executor. Mr. Justice Davis declivered the opinion.

No. 167. Detisch. vs. Wiggins et al.—Error to the Supreme Court of Colorado.—This was an action for tresspass, to recover for an alleged unwarranted levy. The defence was justification, but there was a recovery under the rulings of the Court excluding certain evidence of the defence in support of the plea of justification. The judgment is reversed, the Court holding that the plea contained all the averments necessary to a justification, and shat nad the facts alleged been allowed to be proved a recovery by the piaintiff would have been impossible. Mr. Justice Strong delivered the opinion.

NIPPED IN THE BUD.

NIPPED IN THE BUD.

There was a ball on Monday night in Walhalla Hall, which establishment is situated in the classic precincts of Orchard street, and whither Mr. Francis Keelaher, of No. 71 James street, betook himself. Keelaher, of No. 71 James street, betook himself, bedecked, of course, in his most elaborate raiment, the indulged freely in the alluring quadrille and the mazy waitz until the approach of the very witching hour of two A. M., at which time one reckless in individual bearing the tender appellation of Michael Hayser, went for the wealth which he carried on his person, and succeeded in obtaining it to the extent of a little over \$25. But Mr. Hayser was destined to revel in his ill-gotten gains but a brief season, for the eagle eye of Mr. Keelaher It upon him just as he was making away with it, and very soon the individual was in the strong grasp of a brawny officer. Yesterday morning he was atraigned before Justice Scott, at the Essex Market Police Court, where he was committed for trial.

THE ERIE INVESTIGATION.

Testimony of Horace F. Clark About Paying Legislative "Ransoms."

A LETTER FROM GEORGE M'HENRY

Mr. R. S. Evans Gives His Views on Oath.

THE PRO RATA ROBBERY.

The Eric Investigating Committee, resumed its sittings yesterday at 10 A. M., at the Fifth Avenue Hotel, Messrs. Craig and Carpenter being absent, Mr. Watson, the President of the Eric Railway Company, presented extracts from the minutes of the company, embodying a letter from Attorney General Barlow, in which that gentleman accounted for the expenditure of money mentioned in the testimony of the previous day.

Colonel Burnett, counsel for the Eric Company,

presented the following statements, which he di sired should be entered upon the minutes:—

sired should be entered upon the minutes:—
The Eric Company desire formally to announce to the committee that if there is any point covered by the resolution under which the committee is acting, or teuched upon during this investigation, with reference to the accounts or

PRESENT MANAGEMENT OF THE ERIE RAILWAY, upon which the committee may desire further information and proof, or in regard to which the committee have any doubts as to the propriety and legality of the action of the company, the company is willing and ready to lurnish the same; but respectfully ask that the committee will designate the particular point or matter, if any there he, in relation to which any doubt exists, in order that the same may be cleared up by further or corroborative testimony which the company is ready to produce.

Mr. Babcock declined, saying that as this was the last day of the investigation the committee would not have time to consider any further testimony. TESTIMONY OF R. S. EVANS,

Mr. R. S. Evans, of London, on being sworn, said his business was to arrange loans for foreign governments, and also to forward any undertaking of the Erie road in London, and to represent the interests of the firms engaged in placing them; he had also been engaged in negotiating the Atlantic and Great Western loans; there was not much of a market for them in London: the aim of the reorganization was to improve American credit in Europe in that class of securities; the owners of that road were the public of Great Britain; there was but one man in London who stood by the stockholders, and that was Mr. James McHenry; he felt that he had induced them to spend their money,

there was but one man in London who stood by the stockholders, and that was Mr. James McHenry; he felt that he had induced them to spend their money, and it was his duty to try and get them some return; after the reorganization he ceased to be the financial ageut of the stockholders, and Bischonfsheim & Co. assumed that charge; there was no hope of improving the securities till Jay Gouid was ousted; such was the object of the Change in the direction; the Atlantic and Great Western interest had nothing to do with it, save in raising the character of American securities generally; they also improved Atlantic and Great Western, in which they were largely interested; hoknew of no scheme for uniting the two roads; was certain that such a plan would be as unpopular in England as in America, for the reason that Eriesthares were divided up among small holders; these small holders would not be likely to do anything to depreciate their own property.

TRETIMONY OF HORACE F. CLARK.

Mr. Clark on being sworn said he was familiar with the laws of this State with regard to the Consolidating law; the law was passed in 1869; it prohibits the consolidation of roads unless three-lourths concur; the laws in relation to leasing roads are very defective; the only one authorizing the leasing of a road was passed April 23, 1839; the construction that has been given to this act is that the corporation should do this; the stockholders have no voice; in other States the laws are different and the interests of stockholders are protected; in some cases the minority stockholders must be paid for their stock if they so elect; I was in Albany last Winter when the Pro Rata bill was introduced; there were two bills, the Pro Rata bill and the other, providing that the same charge should be made for short distances as for long distances; there were many railroad men there, not only from this, but from other States; I do not believe any but legitimate means were used before that committee; I never appeared before a committee of a higher grade; I t

ransom; there is a law against brigandage and one, too, against paying ransom money; well, then the brigand would say, "if you don't pay, of goes your head;" I think you would pay; these PRO RATA BILLS are a constant terror to railway corporations; the officers of the roads are obliged to pay ransom money to ease the heads of their stockholders; the deacon of a church would pay \$10 to save his church from being fired, if that would appease the incendiaries; I have heard of a plan to lease the head of a plan to lease the head of the tries and Great Western Road to the Eric Company; I received

A LETTER FROM MR. M'HENRY, a brother of James McHenry, which I will give to the committee. The letter was:—

36 WALDROOK, LONDON, March 29, 1873.

the committee. The letter was:—

36 Walbrook, London, March 29, 1873.

H. F. Clarr, Esq., New York:

Dear Sir.—When writing you a couple of weeks ago I was not aware that the "C. C. and I." had been leased by its new directors to the Atlantic and Great Western, nor are you perhaps aware that the Eric line is to be leased to the same insolvent concern. I advised Mr. Bunker that I had all the proofs of its fraudulent insolvency. My friend, Mr. Robert G. Kamsdell, leaves perthis steamer. He has important information, and if he is not otherwise relained I would advise your communicating with him, if you wish the lease upset. Yours, truly,

Ramsdell will be at Brevoort House part of a day.

I did not go to see this gentleman, because I was. satisfied that no such move was contemplated; it would be such an injustice to the stockholders; that under

and that of the present direction the thing is not

possible on—Mr. Barber testified that Mr. Dutcher paid him \$50,000. Can you state what consideration he expected from that?

Answer—Well, I know a man who went to Albany to get a school law passed, and he paid \$1,000 to the chairman of the committee there; there is no knowing what a man will do when he can help himself.

Q. You have spoken of ransoms being paid; have they been paid to your knowledge? A. Yes! often. Q. To whom?

Q. To whom?

A LIBEL.

A. I would prefer not to answer; I never paid them myself; I think a great deal of this ransom goes to the newspapers.

Mr. Watson then stated that no proposition to lease the Atlantic and Great Western had been made and would not be entertained either by himself or any of the present direction.

The committee then adjourned to meet in Albany, at half-past three this afternoon. It is understood that the committee will report to-morrow.

ANOTHER TENEMENT HOUSE ROW. Fatal Result of a Dispute Between Landlord and Tenant.

On Saturday last John Gumpman, a German, thirty-six years of age, was removed from his home, in the tenement house 423 East Seventeenth street, to Bellevue Hospital, suffering from a scalp wound complicated by delirium tre-

from a scalp wound complicated by delirium tremens. Gumpman was placed in a cell and treated by Acting Heuse Surgeon Lewis, but his patient grew worse till Monday morning, when death ensued. In the opinion of Dr. Lewis death was due to delirium tremens.

It is possible, however, that the injuries deceased received may have accelerated his death. According to report, Gumpman's landlord received information that he had been throwing filth from the window of his room, and took him to task for so doing. This led to words between them, during which, it is alleged, the landlord struck Gumpman in the face with his fist and knocked him down. In order to definitely determine the cause of death, Dr. Marsh will make a post-mortem examination on the body, which has been removed from the Morgae to the late residence of Mr. Gumpman. Coroner Young has the case in charge. Deceased has left a family. No action has been taken against the landlord.

A GIFT TO SCIENCE.

Boston, Mass., April 22, 1873. Penekese Island, near New Bedford, was yesterday deeded to Professor Agassiz for the proposed Natural History School by Mr. John Anderson, of New York. In addition to the island Mr. Anderson gives 450.000 as an endowment fund for the school